IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 8293 of 2004

Between:

GAMANA, a Registered Voluntary Organization, (Regd. No. 2570/97) rep. by its ;Executive Director Mr. Anil C. Dayakar, Plot No.330, Srivivekananda Nagar, Borabanda, Hyderabad.

..... PETITIONER

AND

1 Government of India, rep. by its Secretary,
Ministry of Environment and Forests, New Delhi.
2 Additional Principal Chief Conservator of Forests, (WL) & Chief Wild Life Warden, Aranyabhavan, Hyderabad
3 A.P. Pollution Control board, maitrivanam, S.R. Nagar, Hyderabad rep. by its Member Secretary.
4 Reliance Industries Limited, 6-3-1090/B/1, Lakeview Towers,
Rajbhavan Raod, Somajiguda, Hyderabad,
rep. by its Managing Director.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or order or direction more particularly in the nature of writ of mandamus declaring the action of the respondent No.1-3 in processing the application of R4 for setting up of processing plant/onshore gas terminal and pipelines near Gadimoga village Hamlet of Polekerru village, Tallarevu mandal, East Godavari District and action R2 in issuing letter dated 22.04.94 as illegal and violative of Environmental

Protection Act and Notification issued there under on 27.1.1994 and consequently direct the respondents not to accord any permission for setting up processing plant and Onshore Gas Terminal near the CORINGA wild life sanctuary by R4 after declaring that the application made by the R4 is to be rejected as per the notification of R1 dt. 27.1.2004 after setting aside the letter dt. 22.4.2004 of R2.

Counsel for the Petitioner: MR.K.S.MURTHY

Counsel for Respondent No.1: MR A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for respondent No.2: GP for Forests

Counsel for respondent No.3: Mr S.V.Bhatt

Counsel for respondent No.4: Mr Mukul Rohatagi, Sr Advocate for Mr D.Seshadri Naidu, advocate

The Court made the following ORDER:

(per Hon'ble Sri Devinder Gupta, the Chief Justice)

Petitioner claiming to be a voluntary, non-profitable and non-governmental organization registered under the Societies Registration Act has approached this court by filing this petition as 'public interest litigation' complaining that the action of the respondents 1 to 3 in processing the application of the fourth respondent for setting up of processing plant/onshore gas terminal and pipelines near Gadimoga village hamlet of Polekerru village, Tallarevu Mandal, East Godavari district, is contrary to the provisions of law. It is prayed to direct the respondents not to accord any permission for setting up of processing plant and onshore gas terminal near Coringa wildlife sanctuary and to direct rejection of application of the fourth respondent. Anil C. Dayakar states that he is a Civil Engineer and is the Executive Director of the petitioner-organization, that he was one of the members of the Hyderabad District Water Conservation Committee and had been closely associated with various public hearings conducted by the Pollution Control Board and that he had been closely associated with the writ petitioners on the subjects of pollution to Hussainsagar lake and to protect Himayatsagar lake and in another writ petition filed to stall ship breaking unit at Vodarevu, Chirala. Thus, he claims to be having locus standi to file the present petition as public interest litigation.

2. The main ground on which the petition is based is that respondents 1 to 3 have failed in their duty in not rejecting the application of the fourth respondent

when the relevant information as regards existence of wildlife sanctuary and reserve forest was suppressed by it in violation of the notification issued by the first respondent in 1994. The action of the A.P. Pollution Control Board in seeking to process the application for promoting the processing plant involving natural gas in the vicinity of wildlife sanctuary and laying pipelines in Coastal Zone Regulation Area is in clear violation of the Coastal Zone Regulations and the Environment (Protection) Act, 1986.

3. The petitioner has alleged that as a part of ongoing survey taken up by the petitioner-organization for environment watchdog activity, a team visited Coringa wildlife sanctuary and Gadimoga village in March and April, 2004 and noticed about 200 acres of land fenced wherein hectic activity was going on, which according to the petitioner, is a part of Sy. Nos. 819 to 837 of Gadimoga village. Enquiries revealed that the activities were in progress nearby the wildlife sanctuary and it was learnt that the A.P. Pollution Control Board had on 7.8.2003 issued "Consent for Establishment" and the first respondent was processing the application of the fourth respondent based upon the consent letter of the second respondent, who had not conducted any study regarding wildlife sanctuary. The petitioner alleged that the land shown by the fourth respondent in its application and the actual site of work was different. Though the land was purchased in Survey Nos. 819-37 from the government, the claim is now being made over the land in Survey No. 812 which had been fenced. The siting guidelines issued by the first respondent were violated. Coringa wildlife sanctuary is situated in Gadimoga village hamlet of Polekerru village adjacent to Bhairavapalem Reserve Forest, which is ecologically a fragile zone. Fourth respondent intended to take up the work of laying pipeline and storage and processing plant in CRZ area. Applications were made by the fourth respondent seeking permission from the first respondent. Schedule II of the Notification requires an applicant to furnish details of land use within ten-kilometer vicinity and the actual distance from any reserve forest and sanctuary. Third respondent, which is the impact assessment agency, conducted public hearing and recommended the case on 7.8.2003. But strangely there was complete silence in the application as regards mentioning the location of sanctuary as also reserve forest vis-à-vis the location of fourth respondent's work.

4. The petitioner further alleged that only when the first respondent issued letter

on 17.11.2003, it was revealed that there was sanctuary and there was danger to flora and fauna. The letter on the face of it suggests that there was willful suppression of facts on the part of the fourth respondent. Sanctuary, according to the petitioner, is within 279 metres from the location of gas processing plant, which fact is confirmed by the contents of letter dated 14.1.2004. From this material on record, the petitioner says that there was suppression of material facts by the fourth respondent. According to the petitioner, the siting guidelines for industries issued by the Ministry of Environment and Forests in 1985 prohibited industrial activities near National Parks and Sanctuaries. The minimum distance stipulated by the authorities is 25 kilometres from the sanctuaries. Neither the Chief Wildlife Warden, nor the Additional Principal Chief Conservator of Forests applied their mind regarding the effect of the proposed plant and the onshore development platform of fourth respondent being nearer to the wildlife sanctuary. The area, where the activity of clearing mangrove was in progress, was situated at a distance of 300 metres from the wildlife sanctuary. Shifting of the area, which actually was shown earlier in the application, to another area required fresh applications to be moved by the fourth respondent. Because of the change in survey number, entire activities of the fourth respondent have to be stopped and the authorities will have to conduct a fresh full-fledged study of impact of the pipeline through mangroves area and wildlife sanctuary. As a matter of fact, according to the petitioner, the forest department has taken serious note of laying pipeline in wildlife sanctuary. Alleging these violations, writ petition was filed on 28.4.2004 seeking aforementioned directions.

5. The petition came up before the Court on 14.6.2004 for preliminary hearing on which date notices were issued to the respondents. Respondents put in appearance on 12.7.2004 and sought time to file affidavits in reply, which have been filed. The petitioner has filed a single affidavit in reply to all the counter affidavits filed by the respondents.

6. Dr. Premlatha Ahujarai, Scientist in the Ministry of Forests and Environments, Government of India, in her affidavit in support of reply on behalf of first respondent states that on 7.4.2004 an application was submitted by the fourth respondent for environmental clearance for the development operation in KG-DWN-98/3 KG-D6 block, installation of offshore and onshore facilities for

handling of oil and natural gas, and pipeline from offshore facilities in/off the coast of Andhra Pradesh. It is stated that after following the established procedure of providing public hearing, the application for environmental clearance was submitted along with environmental impact assessment, environmental management plan, risk assessment report and the consent for establishment from the third respondent. After initial scrutiny of the application and project documents submitted by the State Government, it was noticed that a part of Coringa mangrove forest is located at a distance of 1 to 1.5 kilometers from the proposed onshore terminal and it was also mentioned that the project involves 13 hectares of forest land in the river bed segment of Rathikalava reserve forests (Gauthami-Godavari river). The affidavit further states that the proposal was examined by the Ministry. The project authorities were asked to submit the information regarding the impact of the proposed project on the Coringa wildlife sanctuary, mangrove forests and status of forest clearance. The comments of Chief Wildlife Warden, Andhra Pradesh were obtained on 19.4.2004. The Additional Principal Chief Conservator of Forests (Wildlife) and the Chief Wildlife Warden, Government of Andhra Pradesh, through their letter dated 22.4.2004 provided comments, who commented that if the pipelines pass under the water and are buried under the sea water bed/river bed, the effect on flora and fauna will be very minimal. Therefore, they opined that the fourth respondent should take sufficient precautionary measures to avoid this aspect. They also opined that based on studies of environment impact assessment, environment management plan and the risk assessment carried out, the proposed onshore terminal would not cause significant environmental impact on the Coringa sanctuary.

7. Having dealt with Coringa Wildlife sanctuary, the affidavit of the first respondent further states that there is no violation of Coastal Zone Notification, 1991 as alleged by the petitioner. The site for onshore facility is classified as Coastal Regulation Zone-III as per the Coastal Zone Management Plan and the Environment, Forests, Science and Technology Department, Government of Andhra Pradesh on 12.5.2004 recommended the proposal for environmental clearance since the Coastal Regulation Zone Notification permits the facility for receipt and storage of liquefied natural gas for re-gasification in areas not

classified as CRZ-1 (1).

8. The affidavit of the first respondent further states that based upon the recommendations contained in a report of working group, the Ministry had published a set of environmental guidelines for siting of industries in 1985 before the Environment (Protection) Act, 1986 was enacted. Broad guidelines for areas, which could be avoided while siting the industry, are essentially recommendatory in nature. The Ministry, however, has taken a decision of granting environmental clearance based upon the environmental impact assessment studies and environmental management plan. On 27.1.1994 the environmental impact assessment notice was issued under the provisions of the Environment (Protection) Act, 1986 and since then preparation of environmental impact assessment and environmental management plan have become mandatory for the projects covered by it. The Guidelines for Siting of Industries, 1985 are not statutory and therefore the industrial projects are examined on case to case basis and recommendations for clearance or rejection are made on environmental impact assessment, risk analysis and environmental management plan proposed for the project as per the environmental impact assessment notification. The first respondent has further stated that the National Institute of Oceanography (NIO) had studied the alternative corridors for laying the pipeline from offshore to onshore. Environmental impact assessment, environmental management plan and risk assessment studies were carried out by the National Environmental Engineering Research Institute (NEERI) and the National Institute of Oceanography (NIO). In this background, the proposal of the fourth respondent was considered in the Expert Committee (Industry) in its meeting held on 28.5.2004 in the office of the Ministry of Environment and Forests. The issue regarding the impact of the proposed project on Coringa wildlife sanctuary and Coastal Regulation Zone was specifically discussed in detail. The Committee recommended the project after detailed deliberations on the above issue for environmental clearance subject to specific condition.

9. We need not in our order lay much emphasis on the conditions which were to be complied with by the fourth respondent since the same are not subject matter of the present writ petition. Respondent No. 1 has specifically stated in the affidavit that the fourth respondent has followed all the procedures

of Environmental Impact Assessment Notification and the application to the Ministry was submitted along with the requisite documents, like public hearing report, consent for establishment from the A.P. Pollution Control Board, questionnaire on industrial projects, environmental impact assessment/environmental management plan and risk assessment report. It is specifically stated in reply that there was no suppression of material facts as is alleged by the petitioner. It is also stated that as the onshore terminal facility is located in the proximity of Coringa wildlife sanctuary based upon the comments of the Chief Wildlife Warden, Andhra Pradesh and the Chief Conservator of Forests (Wildlife) stating that if the pipeline passes under water and buried under 1.5 metre below the seabed, the impact on flora and fauna will be minimal, the fourth respondent submitted the scheme for eco-development activity. The Ministry approved the proposal vide its letter dated 1.8.2004 for diversion of forest land of 13.205 hectares in the river bed section of Rathikalava forests for laying pipeline in the area. The proposal of the fourth respondent was thus cleared by the first respondent by taking into consideration all relevant factors. None of the material facts were suppressed by the fourth respondent.

10. On behalf of the second respondent, affidavit in reply was filed by Sri Hitesh Malhotra, Additional Principal Chief Conservator of Forests, Andhra Pradesh, who states that the fourth respondent represented for permission to install natural gas pipeline from onshore block in Bay of Bengal of the East Godavari coast. As the pipeline was proposed through the river Neelarevu, the fourth respondent was asked to take the pipeline from outside the sanctuary. After GPS surveys and shifting of the proposed alignment of pipeline by the fourth respondent, the pipeline's route was proposed through Rathikalava reserve forest, which presently is covered by water. Thereafter, the fourth respondent was asked to submit proposals in statutory form as per Forest Conservation Act, 1980 along with the required information through letter dated 5.10.2002. The Government was informed about it vide letter dated 5.11.2002. While processing the permission, the Additional Director of Ministry of Environment and Forests wanted comments of Chief Wildlife Warden of setting up of onshore terminal which was about 1 to 1.5 kilometre of the mangroves of Coringa. Environmental impact study for the entire project was done by NEERI and the report was submitted to the Ministry of Environment and Forests and

comments of the Chief Wildlife Warden were made available. Details have been submitted by the fourth respondent about the manner of processing the application stating that the surveys conducted by the Pollution Control Board, NEERI and NIO and by the Divisional Forest Officer and District Wildlife Management Officer confirmed that no part of proposed pipeline passes through the sanctuary.

11. Third respondent filed its reply on affidavit of Sri R.M. Gonela, Principal Secretary, Pollution Control Board. It is stated that an application was submitted by the fourth respondent seeking consent for establishment for drilling of development wells in the offshore block, installation of offshore, onshore facilities for handling of oil and natural gas, and establishment of pipeline from offshore to onshore facilities. This project thus attracted the requirements to be followed, as laid down in Environment Impact Assessment Notification, 1994. On 23.5.2003 notice of public hearing was published in leading newspapers for public hearing on 24.6.2003. It was conducted on 24.6.2003 at the Mandal Revenue Office, Tallarevu, East Godavari district under the chairmanship of the District Collector, East Godavari. The public hearing went on without any objections. It is specifically stated that the fourth respondent in its application seeking consent for establishment mentioned all relevant factors, including the details of Coringa wildlife sanctuary and the vicinity of the reserve forests from the block site. The environmental impact assessment reports prepared by the NIO, Mumbai and NEERI, Nagpur also mentioned about the details of Coringa wildlife sanctuary, reserve forests and the impact and assessments. The details furnished by the fourth respondent and mentioned in the reports were discussed in the technical committee meeting on 2.8.2003 and in the consent for establishment clearance committee meeting on 7.8.2003. The consent for establishment was issued on 7.8.2003 stipulating suitable conditions for protection of eco system of Coringa wildlife sanctuary and other sensitive areas existing around the proposed site.

12. As regards the petitioner's allegation regarding change in the area, it is stated that the fourth respondent had applied for "consent for establishment" for the onshore terminal facility in Survey Nos. 819 to 837 of Gadimoga village and thus in its consent for establishment Survey Nos. 819 to 837 were mentioned. Later on, the fourth respondent submitted a letter on 1.3.2004

regarding correction in survey numbers only stating that the land as mentioned in the plans had been assigned new Survey No. 812. Therefore, necessary change was effected by simply changing survey number. Amendment was issued on 19.4.2004. It is specifically stated that the site under reference was the same site and there was no change in the actual location of the project. In the public hearing held on 24.6.2003, Conservator of Forests, Rajahmundry had clarified that the route of the proposed pipeline was in such a manner to avoid damage to the mangrove forest and the entire stretch of pipeline would be laid beneath Nilarevu river-bed without any disturbance to the mangroves. As a matter of fact, NIO, Mumbai had in its report on Marine Environmental Impact Assessment and offshore facilities had studied about three alternative corridors and it was the second corridor, which was proposed by the fourth respondent. The third respondent also refuted the allegations made by the petitioner of the alleged suppression of material facts by the fourth respondent. It is stated by the third respondent that the procedure was followed strictly without any deviation and clearance was given by the Government of India as per provisions of law. It is alleged that the petition is based upon unfounded allegations.

13. A detailed reply has been filed by the fourth respondent on the affidavit of B. Ganguly, Principal Officer of the fourth respondent company. We need not deal elaborately with the affidavit in reply of the fourth respondent; suffice it to say that the fourth respondent has stated that baseless allegations have been made about suppression of material facts. The fourth respondent has explained about the numerous details of making of application and the way in which it was dealt with. It is specifically stated that it had followed statutory rules and regulations in the process of making application for grant of environment clearance to the proposed project, which is of substantial national significance. Contrary to the allegations of the petitioner, detailed comprehensive studies were also conducted on the implications of the project on the environment, reports were submitted, which were examined by the respondents and ultimately the first respondent granted environment clearance to the project after following due process of review and verification. Entire attempt of the petitioner is to create a controversy where there is none and seeks to delay the implementation of the project. Implementation of the project is of national importance of providing uninterrupted energy security to the

country and usage of natural gas will bring in overall improvement of the environmental quality.

14. In reply in one common affidavit, the petitioner dealt with the four counter affidavits of the respondents by simply denying the allegations and reiterating its stand.

15. We heard learned counsel for the parties in detail. Counsel for the third respondent made available to us the original file containing the application of the fourth respondent in order to support its version that there was absolutely no suppression of material facts at any material time by the fourth respondent. We have gone through the record as well. Even prior to conducting the public hearing, the fourth respondent had in its application furnished all details, including the location of Coringa wildlife sanctuary and the location of reserve forest. We have also gone through the "Environmental Impact Assessment for Onshore Facilities Study" conducted by and the report submitted by National Environmental Engineering Research Institute, Nagpur (NEERI) and also "The Marine Environmental Impact Assessment for the Proposed Offshore Facilities Study" and the report submitted by the National Institute of Oceanography, Mumbai (NIO).

16. Having considered the original application and the record of the third respondent and also the two reports, which are respectively of the months of April, 2003 and May, 2003, the allegations of the petitioner that there was suppression of material facts are found baseless and false. It appears that the petitioner entertained a doubt of there being alleged suppression merely on reading the contents of the letter dated 17.11.2003 addressed by the Deputy Conservator of Forests, Ministry of Environment and Forests, Regional Office (Southern Zone), Bangalore to the Principal Secretary to Government of Andhra Pradesh stating that in the maps received with the proposal submitted by the Government of Andhra Pradesh, Environment, Forest, Science and Technology Department, Coringa Wildlife sanctuary is not shown nor any description finds place when the sanctuary is contiguous to the proposed site of diversion. Reliance placed on this letter in support of the allegation that in the proposal of the fourth respondent there was suppression of material information is wholly

misconceived. In this correspondence, the proposal referred to is not the proposal of the fourth respondent, but it is proposal of the State Government as per the requirement of the Forest (Conservation) Act, 1980. Section 2 of the said Act imposes a restriction on de-reservation of forests or use of a forest land for non-forest purposes that it cannot be done except with the prior approval of the Central Government. Rule 6 of the Forest (Conservation) Rules, 2003 require that every user agency, who wants to use any forest land for non-forest purposes, shall make its proposal in the appropriate form appended to the Rules in Form 'A' for proposals seeking first time approval under the Act and in Form 'B' for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier. This form is to be submitted to the State Government along with the requisite information and documents completed in all respects well in advance before taking up of non-forest activity in the forest land. Every State Government after receiving the proposal on being satisfied that the proposal requires prior approval under Section 2 shall send its proposal to the Central Government in appropriate form. It is this proposal of the State Government, which was under consideration, and not the application, which was presented by the fourth respondent to the third respondent for environment clearance. Therefore, the entire basis of the petitioner making wild allegation of suppression of material facts is founded on wrong premise.

17. The Marine Environmental Impact Assessment Report of NIO assessed the impact of the drilling operations on fisheries or fishing activities to be totally insignificant. Based upon techno economic operational and ecological considerations three alternate corridors for pipeline were considered. For each corridor the effect on benthic habitats, loss of benthos, biomass and population were considered along with loss of mangrove plants. The overall assessment indicated that the environmental impacts associated with laying the pipelines through the river bed would be far less than those associated with the other two routes. The general absence of mangroves and aquaculture farms within the corridor as well as prevailing low benthic faunal potential of the estuarine segment is the main advantage of the routing the pipeline corridor through the river route is. NEERI in its report on Environmental Impact Assessment for onshore facilities considered a number of components, such as air, noise, water, land, ecology and socio economic environment. It opined

that vegetation and human settlements in the vicinity of the proposed terminal are not likely to be affected by the proposed activity because the change in air quality is only marginal and within permissible ranges. Net impact from changed scenario of emissions (point and fugitive) due to the proposed project shall be marginal and would not cause any adverse impact on human health and vegetation in and around the project site. Though it was opined that the average noise levels will increase, but the increase will only be marginal in comparison to the existing noise levels and the impact of the increase in noise levels on general population would be insignificant. Green belt development around onshore terminal is recommended in the report which likely to reduce the impact of noise. Even no adverse impact on marine quality is envisaged. As regards the pipeline construction, the report said that it will cause disruption to the land use; but as the pipeline will only require only a narrow corridor of land and will be laid underground no primary or secondary long term impacts are envisaged on land use pattern. During constructions also the report opined that the only anticipated impact on the land would be temporary and localized. The report also considered the sensitive zones, its location from the proposed onshore terminal of the pipeline route, including mangrove forest of Coringa, Bhairavapalem and the forests south of Godavari river and opined that the impact would be minimal and the ground belt development guidelines as suggested in the environmental management plan should help in overall improvement.

18. We have also gone through the original application submitted for obtaining no objection certificate from pollution angle as well as consent for establishing the project, which is contained in the file produced by the A.P. Pollution Control Board. The application was submitted in triplicate and is dated 10.5.2003. Along with the particulars as are required to be mentioned and supplied in the format, the application was accompanied with documents containing brief description of the project, processes and facilities; tentative list of materials used in the project (tentative); description of features within 20 kilometres radius from onshore terminal site; brief description of effluent treatment facilities in the project and details of HSE organogram. Not only in the documents annexed to the application but in the format also under the heading location, the fourth respondent did make mention of the existence of

Bhairavapalem, Rathikaluva and Coringa reserve forests, as also Coringa wildlife sanctuary. It also furnished details of about ten small and medium scale industries then existing within radius of 20 kilometres with population details.

19. From the material on record, as has been observed by us what we find is that the petitioner made wild allegations in the petition without any foundation that there was suppression of material facts by the fourth respondent while applying for permissions or that the respondents did not apply their minds while according their consent/sanction. We may also mention, at this stage, that learned counsel for the petitioner rightly and frankly so did not challenge the correctness of the technical appraisal and assessments as has been made by the two institutions, viz., NEERI and NIO or to the technical views expressed by various officials.

20. Needless to add that in such like major projects, it cannot be visualized that there will not be any effect on the ecology. Merely that there is bound to be some adverse effect on ecology would not be a ground for judicial interference when the authorities concerned have taken due care and caution of the extent of impact on ecology and granted requisite permissions/sanctions subject to conditions to be complied with by the fourth respondent as per the recommendations made in the environmental management plan and also to comply with various other requirements under the relevant environmental laws. None of the authorities were shown to have bypassed any of the provisions of the relevant provisions of relevant environmental laws the rule or the regulation or any deviation from any established standards were pointed out to us. Primary effort of the Court, while dealing with environmental related issues in a petition filed under Article 226 of the Constitution, whether a writ petitioner has raised or not raised such questions, would be to see that the enforcement agencies - whether it be Central or State or any other authority – have taken adequate steps for the enforcement of the laws. In regard to intricate technical matters, the courts will not be fully equipped and necessarily will have to rely on outside expert agencies and unless there is a challenge to such reports of expert agencies, it will not be permissible for the Courts to substitute their own views for the views expressed by the expert agencies. Endeavour of the courts in such like matters would be that no activity, which would ultimately lead to unscientific and unsustainable development and ecological destruction should

at all be allowed and the courts must scrupulously try to protect the ecology and environment always keeping in mind that a balance has to be maintained between development and ecology.

21. In a recent decision in **ESSAR OIL LTD v. HALAR UTKARSH SAMITI,** the Supreme Court dealt with a similar case where Essar Oil Company, Bharat Oman Refineries Limited, Gujarat Positra Port Company Limited sought to lay pipelines to pump crude oil from a single buoy mooring in Gulf across the Marine National Park and Marine Sanctuary to their oil refineries in Jamnagar district, and held that the State Government must ask for and obtain an environmental impact report from the expert bodies and the applicant must also come forward with an environmental management plan, which must be cleared by the experts and the State Governments must also be satisfied that the damage likely to be caused is not irreversible and the applicant should always be prepared and sufficiently secure the cost of reversing any damage that might be caused. Once the State Government had taken all precautions to ensure that the impact on environment is transient and minimal, the courts will not substitute their own assessment in place of the opinion of the persons, who are specialists and who may have decided the question with objectivity and ability.

22. Applying the aforementioned principles we find that in this case both NIO and NEERI, the expert bodies carried out extensive studies and made numerous recommendations in their reports. Besides that the other technical authorities, including the forest department, also studied the project and the proposal of the fourth respondent. As noticed above after complying with the provisions of the relevant laws, the project was cleared subject to certain conditions including those which were mentioned in the environment management plan. As such we do not find any illegality or irregularity on the part of the respondents in clearing the project and for that reason are of the view that there is no substance in the writ petition, which is hereby dismissed.

23. Rule discharged. Parties to bear their respective costs.

26th October, 2004.

Sarfraz

// true copy //

Assistant Registrar

To

1. Secretary, Government of India,
   Ministry of Environment and Forests, New Delhi.
2 Additional Principal Chief Conservator of Forests, (WL) & Chief Wild Life Warden, Aranyabhavan, Hyderabad
3 Member Secretary, A.P. Pollution Control board, maitrivanam, S.R. Nagar, Hyderabad.

4. Two CD copies.

5. The GP for Forests, High Court of Andhra Pradesh, Hyderabad.